



U.S. Department of Justice

Office of the United States Trustee

Ohio and Michigan, Region 9

Howard M. Metzenbaum U.S. Courthouse
201 Superior Ave. East
Suite 441
Cleveland, OH 44114-1240

To: Northern District of Ohio Panel Trustees
From: Andy Vara, AUST
Re: Report of Sale – Implementing New Virtual Entry
Date: November 7, 2018

Good morning,

At recent training events we've discussed plans to implement a virtual entry on CMECF for certain reports of sale. Having a virtual entry available to chapter 7 trustees should make it easier and more efficient, and will reduce the number of audit findings. Recent CPA audits and field examinations of chapter 7 trustees have identified variances in procedures regarding sales, settlements, leases and compromises and compliance with Rule FRBP 6004(f)(1). Specifically, the second line in FRBP 6004(f) (1) states: "[u]nless it is impracticable, an itemized statement of the property sold, the name of each purchaser, and the price received for each item or lot or for the property as a whole if sold in bulk shall be filed **on completion** of the sale." (emphasis added). This applies to all types of sales, including where only a "Notice of Intent to Sell" has been docketed. It appears that many trustees are not timely filing a report of sale, or not filing a report of sale at all, as contemplated by FRBP 6004(f)(1).

Oftentimes the terms of the resulting sale transaction do not deviate from those set forth in the corresponding motion. Since the motions you initially file encompass the required detailed information, we believe it would be simpler to add a virtual docket event to identify when the transfer for property is complete, and all payments have been received. To that end, the Bankruptcy Clerks Office has added a docket text entry in CMECF (see attached example from the SDOH) which will allow you to easily report when the sale is complete and all funds have been received. The "Report of Sale" docket event can be accessed from the Trustee.

The idea is for trustees to use this virtual entry to docket a report of sale when the terms of the sale match what was disclosed in the motion. The virtual entry would be used only when the transaction was completed on terms consistent with the motion. If the eventual and final terms

changed, the trustee would not use the virtual entry. Instead, the trustee would upload a report of sale setting forth the terms. For instance, the virtual docket entry would generally not be used if there was an auction sale. Due to the fluctuating nature of auction sales, you will need to continue to file a report of sale filed after the auction is held.

In making the virtual entry, the docket text will refer to the original event in which you were seeking approval to administer the property, and confirms completion of the sale, thereby ensuring compliance with FRBP 6004(f). For the rare occasion where there is an objection to the Notice of Sale, Settlement, etc., and the terms, buyer, and/or price change, and these changes are captured in an Order, you should refer to Order instead of the original event when making the virtual entry.

This new docket entry is effective immediately and should be made when the sale is complete and all funds have been received. This timing also applies to filing a regular report of sale.

I greatly appreciate Teresa Underwood, Clerk of Courts for the NDOH, and Jason Wenning implementing the virtual entry.

If you have any questions, please contact me.

Cc: Maria Giannirakis
Sharon Lowe
Marion Brosko
Helayne Loeb
Chris Sonson